



MEMORANDUM

DATE: November 15, 2017
For November 30, 2017 Hearing

TO: Thomas Sayler-Brown
Zoning Examiner

FROM: Scott Clark
Planning & Development Services
Director

SUBJECT: REZONING - PLANNING & DEVELOPMENT SERVICES REPORT
C9-17-07 Offices at the Loop – Broadway Boulevard, O-3 to C-1 (Ward 2)

Issue – This is a request by Gene Goldstein of Bramic Design Group, on behalf of the property owner, Vast Real Estate Solutions, to rezone approximately 4.61 acres from O-3 to C-1 zoning. The rezoning site is located on the south side of Broadway Boulevard and east side of the Pantano Wash, approximately 1,200 feet west of the intersection of Pantano Road and Broadway Boulevard (see Case Location map). The preliminary development plan (PDP) shows that portions of the existing office complex will be converted from office uses to a mix of commercial, retail, and restaurant uses. Access is from Broadway Boulevard, a Gateway arterial route.

Planning & Development Services Recommendation – The Planning and Development Services Department recommends approval of the requested C-1 zoning, subject to the attached preliminary conditions.

Background Information

Existing Land Use: office complex

Surrounding Zones and Land Uses:

North: Zoned C-1 and SR: Retail commercial and Pantano River Park

South: Zoned O-3; Office

East: Zoned C-1; Multifamily residential

West: Zoned RX-1: Pantano Wash and river park

Previous Cases on the Property:

C9-80-37 Omni - Broadway Boulevard This was a request to rezone the subject property from UR to R-4 (O-3) zoning for an office complex. On May 9, 1983, Mayor and Council adopted Ordinance No. 5763. On May 22, 1983, permit number PA-2112 was issued, effectuating the R-4 (O-3) zoning.

Related Cases:

C9-00-39 Mar & Rothschild & Young - Broadway, from SR and R-2 to C-1 and C-2 This was a request to rezone 14.66 acres located approximately 600 feet north of Broadway Boulevard between the Pantano Wash and Pantano Road, from SR and R-2 to C-1 and C-2 to allow the development of the site with a large retail establishment use (big box retail), including vehicle parking and loading zones. On January 14, 2002, Mayor and Council adopted Ordinance No. 9653 and on November 27, 2002, a subdivision plat was recorded, Sequence No. 20030070610, effectuating the C-1 and C-2 zoning.

C9-82-69 Country Escrow Services - Broadway Boulevard, from C-1 to C-2 This was a request to rezone approximately 0.72 acres from C-1 to C-2 zoning. This rezoning site is located on the north side of Broadway Boulevard approximately 500 feet east of the intersection of Broadway Boulevard and Sarnoff Drive. The Preliminary development plan shows a personal self-storage facility with approximately 719 storage units and one security guard residential unit. On May 9, 1983, Mayor and Council adopted Ordinance No. 5884. On November 22, 1983, permit number PA-5158 was issued, effectuating the C-2 zoning.

Applicant's Request – The applicant requests C-1 zoning to allow conversion of portions of an existing office development to include commercial retail and restaurant uses. No building additions are proposed with this rezoning.

Planning Considerations – Land use policy direction is provided by the *Pantano East Area Plan (PEAP)* and *Plan Tucson*.

The rezoning site is located within an existing neighborhood as identified on the Future Growth Scenario Map of *Plan Tucson*. Existing neighborhoods are characterized in *Plan Tucson* as primarily built-out residential neighborhoods and commercial districts in which minimal new development and redevelopment is expected in the next few decades. The goal is to maintain the character of these neighborhoods while accommodating some new development and encouraging reinvestment, services, and amenities that contribute to further neighborhood stability. Environmentally sensitive infill projects that reflect sensitivity to site and neighborhood conditions and adhere to relevant site and architectural design guidelines are supported when they enhance the overall function and visual quality of the street, adjacent properties, and the community. Urban heat island effects should be mitigated by expanding and maintaining a healthy drought-tolerant low-water use urban forest. Existing screening and landscaping mitigates impacts of the proposed commercial uses.

PT identifies the rezoning site as being located in an area established as being within the vicinity of Davis-Monthan Air Force Base. This should be noted on the development package submittal.

The overall goal of the *PEAP* is to establish guidelines for the future growth, while protecting existing development. These policies are meant to be used in conjunction with the General Design Guidelines. *PEAP* supports rezoning to commercial uses if there is a demonstrated need for commercially-zoned land in the area; the site has primary access to an arterial street; the number of access points is limited; and adjacent uses, including residential uses, are adequately buffered. Any new commercial development must be compatible with adjacent residential uses.

The proposed gross floor area to remain as office uses is 53,501 square feet. An additional 53,301 square feet of floor area is proposed for conversion to a mix of office/retail uses, and 53,301 square feet is proposed for a mix of retail/restaurant uses, with some flexibility in these figures depending on future tenants and demand for the various uses.

The existing commercial corridor, near the intersection at Pantano Road and Broadway Boulevard extends west along Broadway Boulevard and includes the proposed rezoning site, which is currently zoned O-3 office. The adjacent property to the east is zoned C-1 commercial and developed with an apartment complex. To the south of the rezoning site are office buildings, zoned O-3. To the west is the Pantano Wash with its linear river park, and a hotel across the wash. To the north across Broadway Boulevard are retail commercial uses adjacent and to the east of the Pantano Wash.

Field inspection by staff indicates there are currently no billboards on the rezoning site.

Design Considerations

Land Use Compatibility – The applicant proposes to repurpose the existing buildings and infrastructure on the property in order to provide a mix of retail, restaurant, and office uses. All current tenants consist of office-related uses, as allowed in the O-3 zone. The applicant states that, due to a slow-down in leasing office spaces at the complex, the owner wishes to rezone the property to C-1 to provide a more diverse mix of small-scale commercial uses such as bicycle shops, coffee shops, restaurants, and other small retailers that may serve a need in the area, and for the adjacent river park trail/bike loop users. Changes are proposed to the color of the buildings and some interior remodeling would be needed to accommodate new uses. However, no building additions or changes to the overall site layout are proposed. Perimeter walls and screen walls should be complementary to the architectural design and color theme of the development.

The preliminary development plan (PDP) shows twelve existing buildings ranging from one to three stories in elevation. The existing building height is as much as 30 feet, 6 inches, which is 6 inches higher than the maximum 30-foot building height allowed in the C-1 commercial zone. However, no Board of Adjustment variance is required for the height due to an exception in *Unified Development Code* Sec. 6.4.4.C.9, which states that if the Mayor and Council authorize a rezoning and existing buildings on the subject property exceed the maximum allowed height, the existing buildings shall be considered conforming.

Vehicular Access and Circulation – Vehicular access to the rezoning site is from Broadway Boulevard, which is designated on the Major Streets & Routes Plan (MSRP) as a Gateway arterial route with a right-of-way width of 150 feet.

Conclusion – The rezoning request is in substantial compliance with the policies in the *Pantano East Area Plan*, and *Plan Tucson*. The site fronts Broadway Boulevard, a commercial corridor developed with a mix of commercial, office and high density residential land uses. The proposed small-scale commercial and restaurant uses are compatible with the surrounding land uses and consistent with policy direction. Approval of the requested C-1 zone is appropriate, subject to compliance with the attached preliminary conditions.

PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated June 26, 2017, and required reports, are to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATIBILITY

6. Any new walls visible from a public right-of-way and/or adjacent to existing residential development, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
7. Six (6) inch wide masonry block or greater shall be used for any new perimeter walls.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case C9-17-07 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City grant a Special Exception Land Use for the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the Special Exception Land Use. The Owner believes that the Special Exception Land Use for the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the Special Exception Land Use in Case C9-17-07.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested Special Exception Land Use that limit the potential development of the Property. The Owner acknowledges that the Special Exception Land Use and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the Special Exception Land Use application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the Special Exception Land Use if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested Special Exception Land Use. If the Owner withdraws the application or does not effectuate the Special Exception Land Use, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case C9-17-07.

Dated this _____ day of _____, 20____.

Owner:

(Name of Individual, Corporation, Partnership, or LLC, as applicable)

Owner:

(Name of Individual, Corporation, Partnership, or LLC, as applicable)

By:

(Signature of Owner or Authorized Representative, if applicable)

By:

(Signature of Owner or Authorized Representative, if applicable)

Its:

(Title of Individual Signing in Representative Capacity)

Its:

(Title of Individual Signing in Representative Capacity)

State of Arizona)
County of _____)

On this _____ day of _____, 20____, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

Notary Public

My Commission expires: _____

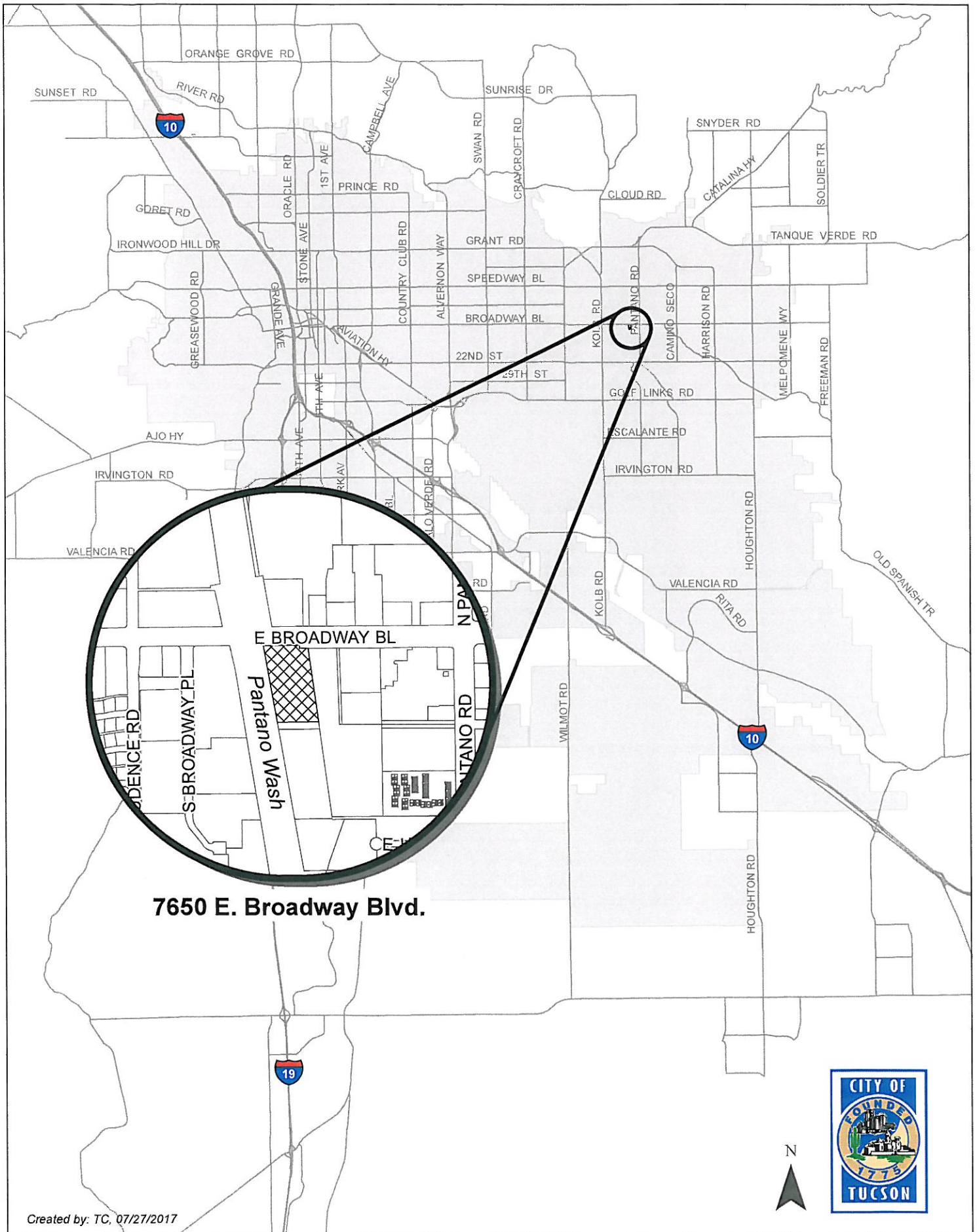
City of Tucson, an Arizona municipal Corporation:

By:

Planning & Development Services Department

This form has been approved by the City Attorney.

C9-17-07: Offices at The Loop - Broadway Blvd



C9-17-07 Offices at The Loop - Broadway Blvd

Rezoning Request: O-3 to C-1



Subject Property



2016 Aerial

Created by: TC, 07/27/2017

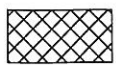
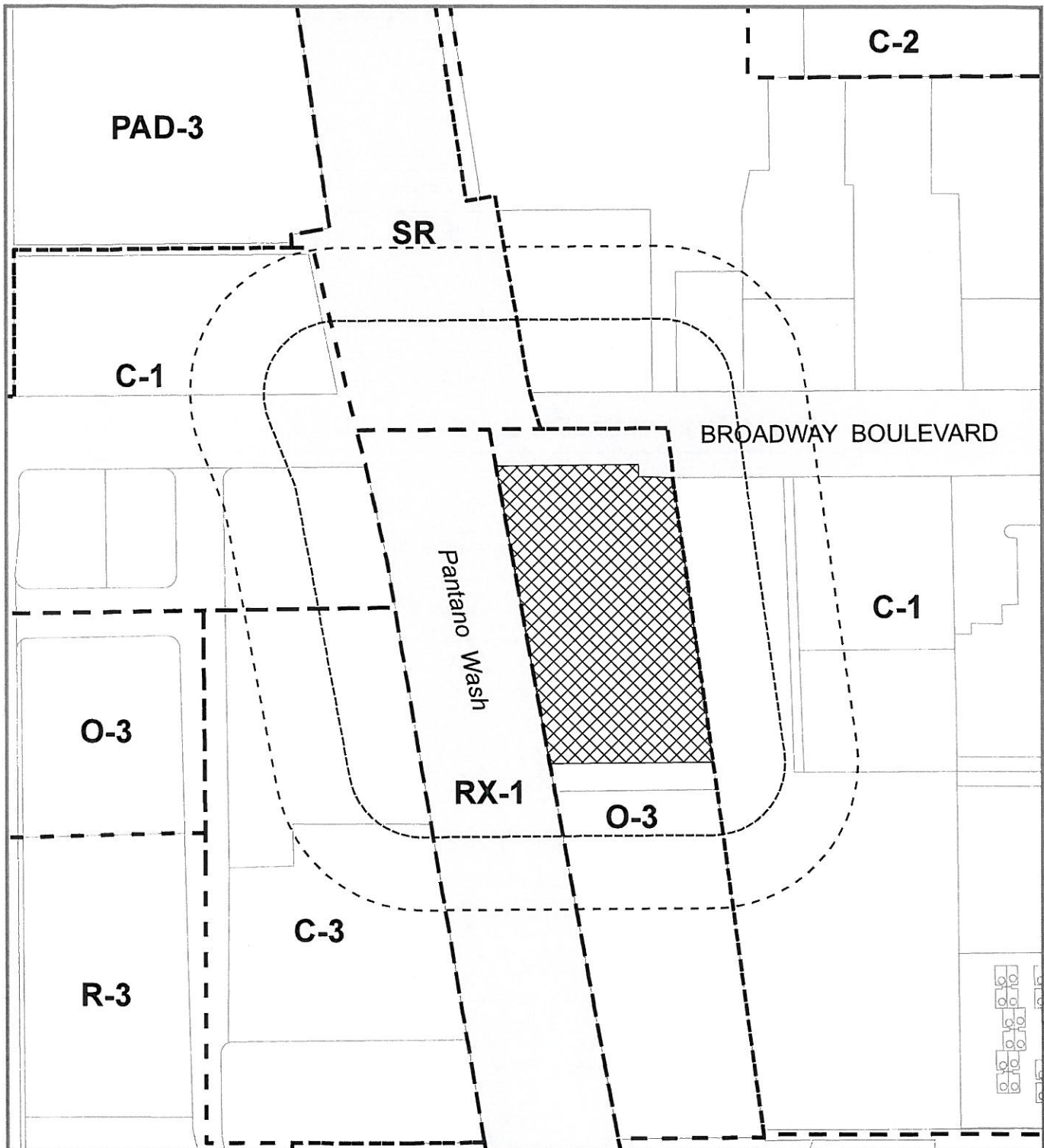
Address: 7650 E. Broadway Blvd.
Base Maps: T.14S R.15E S. 17
Ward: 2

0 150 300
Feet
1 inch = 300 feet

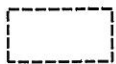


C9-17-07 Offices at the Loop - Broadway Boulevard

Rezoning Request: from O-3 to C-1



Area of Rezoning Request



150' Protest Area



300' Notification Area



Zone Boundaries



Address: 7650 E. Broadway Boulevard

Base Maps: Sec.17 T.14 R.15

Ward: 2

0 150 300 Feet

1 inch = 300 feet



created by: JR, 6/16/2017



Approval – Protest Form

If you wish to submit a written protest or approval, this form is provided for your convenience. Please print your comments below, sign your name, and mail to the Rezoning Section of the Planning and Development Services Department at the address on the reverse side (you will need to attach postage). The number of approvals and protests along with protest calculations will be reported at the Zoning Examiner's public hearing.

Approvals and protests must have an owner's signature to be recorded.

If there are protests from 20% of the property owners within 150' of the whole perimeter of the property being rezoned, including BOTH 20% of the property by area and 20% of the number of lots with 150', then an affirmative vote of $\frac{3}{4}$ of the Mayor and Council (5 of 7 council members) will be required to approve the rezoning ordinance or Mayor and Council Special Exception. Public rights-of-way and the area/lot of the proposed rezoning are included in the protest calculations.

**Case: C9-17-07 Offices at the Loop – Broadway Boulevard, O-3 to C-1
Ward 2**

I/We the undersigned property owners, wish to

- ☐ APPROVE the proposed rezoning/special exception
☐ PROTEST the proposed rezoning/special exception

Reason:

PLEASE PRINT YOUR NAME	PLEASE PRINT MAILING ADDRESS	PLEASE PRINT LEGAL PROPERTY DESCRIPTION		
		Subdivision	Block	Lot

Owner's Signature: _____ Date _____

C9-17-07



City of Tucson PMc
Planning & Development Services
201 N. Stone Avenue
P.O. BOX 27210
Tucson, Arizona 85726-7210

C9-17-07
IMPORTANT REZONING NOTICE ENCLOSED